(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 543 OF 2003

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. V. Menezes, Advocate for the Petitioners.

Mr. C.A. Coutinho, Advocates for the Respondents No.1 and 2.

CORAM : **N.N. MHATRE, J.**

DATE : 8TH JANUARY, 2004.

P.C.:

The impugned orders of the learned Trial Judge proceed on the footing that the petitioners ought not to be shown any indulgence for filing the written statement as the petitioners had been granted several adjournments and had yet not filed the written statement. After hearing the Advocate for some time, I am of the view that both the impugned orders are required to be set aside. The Petitioners had sought extension of time for filing the written statement on a couple of occasions. The matter was adjourned

to 25.3.2003 when an application made by the Respondents for amending the plaint was granted. The date fixed for filing written statement was 10.4.2003. An application was made by the Petitioners to extend the time for filing the written statement as material documents, including the report based on the site inspection carried out by the Engineer, on which the defences were to be raised were not in their possession. The Trial Court ought to have considered this a sufficient ground for extending the time, especially since the plaint was amended. The Trial Court shall take the written statement of the petitioners on record provided it is tendered on the next date of hearing. The amount of Rs.5000/- already deposited in this Court as costs shall be paid over to the respondents.

Petition disposed of.

sl. **NISHITA MHATRE, J.**